

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation )  
Against: )**

**DHANU KAPOOR, M.D. )**

**Case No. 800-2015-017804**

**Physician's and Surgeon's )  
Certificate No. A80435. )**

**Respondent )**

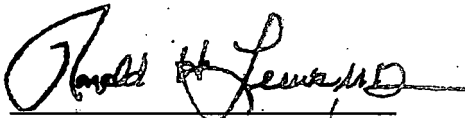
**DECISION**

**The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on March 9, 2018.**

**IT IS SO ORDERED February 8, 2018.**

**MEDICAL BOARD OF CALIFORNIA**

By:   
\_\_\_\_\_  
**Ronald Lewis, M.D., Chair  
Panel A**

1 XAVIER BECERRA  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 KEITH C. SHAW  
Deputy Attorney General  
4 State Bar No. 227029  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5385  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 800-2015-017804

11 **DHANU KAPOOR, M.D.**

12 2110 Forest Ave., Suite E  
13 San Jose, CA 95128-1469

14 **Physician's and Surgeon's Certificate No. A**  
15 **80435**

16 Respondent.

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
22 of California (Board). She brought this action solely in her official capacity and is represented in  
23 this matter by Xavier Becerra, Attorney General of the State of California, by Keith C. Shaw,  
24 Deputy Attorney General.

25 2. Respondent Dhanu Kapoor, M.D. (Respondent) is represented in this proceeding by  
26 attorney Thomas E. Still, Esq., whose address is: 12901 Saratoga Avenue, Saratoga, CA 95070-  
27 9988.  
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10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest those charges.

11. Respondent agrees that her Physician's and Surgeon's Certificate is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

## CONTINGENCY

12. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Reprimand shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Reprimand, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

### A. PUBLIC REPRIMAND

IT IS HEREBY ORDERED that Respondent Dhanu Kapoor, M.D., Physician's and Surgeon's Certificate No. A 80435, shall be and hereby is publicly reprimanded pursuant to

1 California Business and Professions Code section 2227, subdivision (a)(4). This public  
2 reprimand is issued in connection with allegations of unprofessional conduct and failure to  
3 maintain adequate records regarding Respondent's treatment of a patient on or about October 14,  
4 2015, as set forth in Accusation No. 800-2015-017804.

5 **B. EDUCATION COURSES**

6 Within 60 calendar days of the effective date of this Decision, Respondent shall submit to  
7 the Board or its designee for its prior approval educational program(s) or course(s) which shall  
8 not be less than twelve (12) hours. The educational program(s) or course(s) shall be aimed at  
9 correcting any areas of deficient practice or knowledge, and shall focus on Tuberculosis testing  
10 and disease, and shall be Category I certified. The educational program(s) or course(s) shall be at  
11 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)  
12 requirements for renewal of licensure. Respondent shall participate in and successfully complete  
13 the classroom component of the course(s) not later than six (6) months after Respondent's initial  
14 enrollment. Respondent shall successfully complete any other component of the course(s) within  
15 one (1) year of enrollment.

16 Educational program(s) or course(s) taken after the acts that gave rise to the charges in the  
17 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
18 or its designee, be accepted towards the fulfillment of this condition if the course would have  
19 been approved by the Board or its designee had the course been taken after the effective date of  
20 this Decision.

21 Respondent shall submit a certification of successful completion to the Board or its  
22 designee not later than fifteen (15) calendar days after successfully completing the course(s), or  
23 not later than fifteen (15) calendar days after the effective date of the Decision, whichever is later.

24 If Respondent fails to enroll in or successfully complete the course(s) within the  
25 designated time period, Respondent shall receive a notification from the Board or its designee to  
26 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
27 shall not resume the practice of medicine until she has completed the required course(s). Failure  
28 to enroll in or successfully complete the course(s) within the designated time period shall

1 constitute unprofessional conduct and grounds for further disciplinary action.

2 **C. PROFESSIONALISM PROGRAM (ETHICS COURSE)**

3 Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a  
4 professionalism program, that meets the requirements of Title 16, California Code of Regulations  
5 (CCR) section 1358.1. Respondent shall participate in and successfully complete that program.  
6 Respondent shall provide any information and documents that the program may deem pertinent.  
7 Respondent shall successfully complete the classroom component of the program not later than  
8 six (6) months after Respondent's initial enrollment, and the longitudinal component of the  
9 program not later than the time specified by the program, but no later than one (1) year after  
10 attending the classroom component. The professionalism program shall be at Respondent's  
11 expense and shall be in addition to the Continuing Medical Education (CME) requirements for  
12 renewal of licensure.

13 A professionalism program taken after the acts that gave rise to the charges in the  
14 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
15 or its designee, be accepted towards the fulfillment of this condition if the program would have  
16 been approved by the Board or its designee had the program been taken after the effective date of  
17 this Decision.

18 Respondent shall submit a certification of successful completion to the Board or its  
19 designee not later than 15 calendar days after successfully completing the program or not later  
20 than 15 calendar days after the effective date of the Decision, whichever is later.

21 If Respondent fails to enroll in or successfully complete the course(s) within the  
22 designated time period, Respondent shall receive a notification from the Board or its designee to  
23 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
24 shall not resume the practice of medicine until she has completed the required course(s). Failure  
25 to enroll in or successfully complete the course(s) within the designated time period shall  
26 constitute unprofessional conduct and grounds for further disciplinary action.

27 **D. MEDICAL RECORD KEEPING COURSE**

28 Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a

1 course in medical record keeping approved in advance by the Board or its designee. Respondent  
2 shall provide the approved course provider with any information and documents that the approved  
3 course provider may deem pertinent. Respondent shall participate in and successfully complete  
4 the classroom component of the course not later than six (6) months after Respondent's initial  
5 enrollment. Respondent shall successfully complete any other component of the course within  
6 one (1) year of enrollment. The medical record keeping course shall be at Respondent's expense  
7 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of  
8 licensure.

9 A medical record keeping course taken after the acts that gave rise to the charges in the  
10 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
11 or its designee, be accepted towards the fulfillment of this condition if the course would have  
12 been approved by the Board or its designee had the course been taken after the effective date of  
13 this Decision.

14 If Respondent fails to enroll in or successfully complete the course(s) within the  
15 designated time period, Respondent shall receive a notification from the Board or its designee to  
16 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
17 shall not resume the practice of medicine until she has completed the required course(s). Failure  
18 to enroll in or successfully complete the course(s) within the designated time period shall  
19 constitute unprofessional conduct and grounds for further disciplinary action.

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1 ACCEPTANCE

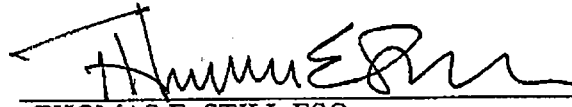
2 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public  
3 Reprimand and have fully discussed it with my attorney, Thomas E. Still Esq. I understand the  
4 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this  
5 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
6 to be bound by the Decision and Order of the Board.

7 DATED: 01/07/2018

  
DHANU KAPOOR, M.D.  
Respondent

9 I have read and fully discussed with Respondent Dhanu Kapoor, M.D. the terms and  
10 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
11 I approve its form and content.

12 DATED: 1/7/2018

  
THOMAS E. STILL ESQ.  
Attorney for Respondent

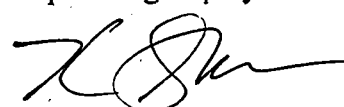
15 ENDORSEMENT

16 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
17 submitted for consideration by the Board.

19 Dated: 1/8/2018

Respectfully submitted,

20 XAVIER BECERRA  
21 Attorney General of California  
22 JANE ZACK SIMON  
23 Supervising Deputy Attorney General

  
24 KEITH C. SHAW  
25 Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**

**Accusation No. 800-2015-017804**

1 XAVIER BECERRA  
2 Attorney General of California  
3 JANE ZACK SIMON  
4 Supervising Deputy Attorney General  
5 KEITH C. SHAW  
6 Deputy Attorney General  
7 State Bar No. 227029  
8 455 Golden Gate Avenue, Suite 11000  
9 San Francisco, CA 94102-7004  
10 Telephone: (415) 703-5385  
11 Facsimile: (415) 703-5480  
12 *Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO July 26 2017  
BY: Shirley N. Analyst ANALYST

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 800-2015-017804

11 **DHANU KAPOOR, M.D.**

**ACCUSATION**

12 2110 Forest Ave., Suite E  
13 San Jose, CA 95128-1469

14 Physician's and Surgeon's Certificate  
15 No. A80435,

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California (Board).

22 2. On or about September 11, 2002, the Medical Board issued Physician's and Surgeon's  
23 Certificate Number A80435 to Dhanu Kapoor, M.D. (Respondent). The Physician's and Surgeon's  
24 Certificate was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on October 31, 2017, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following laws.  
28 All section references are to the Business and Professions Code unless otherwise indicated.

1           4.     Section 2227 of the Code provides that a licensee who is found guilty under the  
2 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed  
3 one year, placed on probation and required to pay the costs of probation monitoring, or such other  
4 action taken in relation to discipline as the Board deems proper.

5           5.     Section 2234 of the Code, states:

6           “The board shall take action against any licensee who is charged with unprofessional  
7 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not  
8 limited to, the following:

9           “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
10 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
11 the applicable standard of care shall constitute repeated negligent acts.

12           “(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
13 for that negligent diagnosis of the patient shall constitute a single negligent act.

14           “(2) When the standard of care requires a change in the diagnosis, act, or omission that  
15 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
16 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
17 applicable standard of care, each departure constitutes a separate and distinct breach of the  
18 standard of care.

19           “(d) Incompetence.”

20           6.     Section 2266 of the Code states: “The failure of a physician and surgeon to maintain  
21 adequate and accurate records relating to the provision of services to their patients constitutes  
22 unprofessional conduct.”

**CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct: Repeated Negligent Acts/Incompetence/Failure to Maintain Adequate and Accurate Records)**

7. Respondent Dhanu Kapoor, M.D. is subject to disciplinary action under sections 2234, 2234, subdivision (c) and (d), and 2266 of the Code in that Respondent engaged in unprofessional conduct and was negligent and/or incompetent, and failed to keep adequate and accurate records in her care and treatment of Patient.<sup>1</sup> The circumstances are as follows:

8. On or about October 14, 2015, Respondent, a United States Citizen and Immigration Services Designated Civil Surgeon certified to complete immigration forms, performed an evaluation for permanent residency for Patient. At the evaluation, Respondent performed a purified protein derivative (PPD) skin test screening for tuberculosis (TB), and administered to Patient immunizations for varicella (chickenpox) and hepatitis A. Patient informed Respondent at the evaluation that she had a previous positive TB skin test and wanted a chest X-ray as an alternative. Respondent performed the PPD test rather than the requested X-ray. Respondent was aware that Patient would not be able to follow-up for her PPD reading in 48-72 hours<sup>2</sup> due to a planned business trip. Patient emailed a picture of her PPD site to Respondent on October 16, 2015, as Patient was concerned about a local reaction around the site at that time. Respondent also claimed that she was concerned about severe necrosis and blistering from the picture of the PPD site. Patient was told by Respondent to make an appointment on October 23, 2015, however, Patient was not evaluated on that date but was given a form (Form I-693), signed under penalty of perjury by Respondent, stating that her PPD test was negative for TB. Patient inquired how Respondent could read the PPD test solely from a picture.<sup>3</sup> Patient also received a copy of her immunization card indicating she had received varicella and hepatitis A immunizations on

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<sup>1</sup> The patient is identified only as "Patient" to protect her right to privacy. The patient's identity will be revealed to Respondent in discovery.

<sup>2</sup> The PPD skin test should be examined physically within 48 and 72 hours after administration. A patient who does not return within 72 hours will need to be rescheduled for another skin test.

<sup>3</sup> At a later date, Respondent would claim the PPD result contained in Form I-693 was only preliminary.

1 October 14, 2015. Patient was upset when she received this information as she already had  
2 varicella as a child, and was not informed by Respondent what immunizations she received nor  
3 provided consent for the immunizations at the time of the evaluation. Patient's immunization  
4 records, provided to Respondent prior to the October 14, 2015 evaluation, documented that  
5 Patient had a positive PPD test on January 10, 2000, a subsequent TB chest X-ray on January 14,  
6 2000, and confirmed Patient acquired the varicella illness in 1991. Patient's medical records  
7 completed by Respondent were void of lot numbers and expiration dates for PPD and  
8 immunizations, as well as where and who administered immunizations.

9 9. Respondent is guilty of unprofessional conduct and subject to disciplinary action under  
10 sections 2234, 2234, subdivision (c) and (d), and 2266 of the Code in that Respondent committed  
11 repeated negligent acts, demonstrated a lack of knowledge/incompetency, and failed to adequately  
12 and accurately document Patient's immunization records, including but not limited to the  
13 following:

- 14 A. Respondent did not properly evaluate and perform the appropriate TB test on a patient  
15 with a history of a positive PPD test, which would have been either a chest X-ray or a  
16 Interferon-Gamma Release Assays;
- 17 B. Respondent failed to correctly interpret a PPD test and provided a diagnosis through a  
18 photograph, when a PPD test can only be read by a physical examination.
- 19 C. Respondent did not arrange for a prompt reevaluation of Patient even though  
20 Respondent claimed she was concerned about severe necrosis and blistering.
- 21 D. Respondent did not understand the 2-step TB testing, nor the limitations of PPD  
22 testing following varicella immunization.
- 23 E. Respondent failed to adequately document her discussions with Patient, including  
24 testing and immunization options.
- 25 F. Respondent certified in Form I-693 that all the information was complete, true, and  
26 correct, and signed by Respondent under penalty of perjury, but later claimed the  
27 negative PPD result was only a "preliminary" result.

1 G. Respondent believes in an initial preliminary reading of a PPD test when no such  
2 medical concept exists.

3 H. Respondent provided Patient with an inaccurate PPD clearance form.

4 I. Respondent needlessly administered a varicella immunization to Patient as no  
5 immunization is required for a patient who previously had varicella illness.

6 J. Incorrectly believing Patient needed a varicella immunization, Respondent also failed  
7 to inform Patient of the required second immunization of the 2-series varicella  
8 immunizations.

9 K. Respondent failed to document lot numbers and expiration dates for PPD and  
10 immunizations, as well as where and by whom immunizations were given.

11 L. Respondent failed to provide Patient with a Vaccine Information Statement as  
12 provided by law, which details the benefits and risks associated with immunizations.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the Board issue a decision:


16 1. Revoking or suspending Physician's and Surgeon's Certificate Number A80435, issued  
17 to Dhanu Kapoor, M.D.;

18 2. Revoking, suspending or denying approval of Dhanu Kapoor, M.D.'s authority to  
19 supervise physician assistants and advanced practice nurses;

20 3. Ordering Dhanu Kapoor, M.D., if placed on probation, to pay the Board the costs of  
21 probation monitoring; and

22 4. Taking such other and further action as deemed necessary and proper.

23  
24 DATED: July 26, 2017

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
State of California  
Complainant

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